

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION
NO. 04-11924-RGS

IAN J. BROWN, JAMES BROWN and)
BARBARA BROWN)
Plaintiffs)
)
v.)
)
UNITED STATES OF AMERICA,)
VERIZON NEW ENGLAND, INC. and)
BOSTON EDISON COMPANY d/b/a)
NSTAR ELECTRIC)
Defendants)

**ANSWER OF DEFENDANT VERIZON
NEW ENGLAND, INC. TO PLAINTIFFS' COMPLAINT**

Now comes the defendant, Verizon New England, Inc. ("Verizon") and responds to Plaintiffs' Complaint as follows:

Jurisdiction

Verizon is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in the jurisdictional statement that the amount in controversy is in excess of Seventy-Five Thousand (\$75,000) Dollars and that diversity of citizenship exists between all plaintiffs and both Verizon and Boston Edison Company d/b/a NSTAR Electric. Further, the statement of jurisdiction is a conclusion of law to which no response is required.

Venue

Verizon admits that this district is the proper venue as to the claims asserted against Verizon.

COUNT I

1. Verizon is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1 of the Complaint.

2. Verizon admits that it is a duly organized corporation with a principal place of business at 185 Franklin Street, Boston, Suffolk County, Massachusetts.

3. Verizon is currently without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3 of the Complaint.

4. Verizon is currently without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4 of the Complaint.

5. Verizon denies the allegations of paragraph 5 of the Complaint.

6. Verizon denies the allegations of paragraph 6 of the Complaint and the lettered subparts of paragraph 6 of the Complaint.

7. Verizon denies the allegations of paragraph 7 of the Complaint.

8. Verizon is currently without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8 of the Complaint.

9. Verizon is currently without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9 of the Complaint.

10. Verizon denies the allegations of paragraph 10 of the Complaint.

COUNT II

11. Verizon is currently without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11 of the Complaint.

12. Verizon is currently without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12 of the Complaint.

13. In response to paragraph 13 of the Complaint, Verizon repeats its responses to paragraphs 1 through 10 of Count I and incorporates them by reference as if fully set forth herein.

14. Verizon is currently without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 14 of the Complaint.

15. Verizon denies the allegations of paragraph 15 of the Complaint.

16. Verizon denies the allegations of paragraph 16 of the Complaint.

COUNT III, COUNT IV, COUNT V & COUNT VI

The allegations of paragraphs 17 through 45 of the Complaint are directed to other defendants. No response by Verizon is required thereto.

FIRST AFFIRMATIVE DEFENSE

Plaintiffs fail to state a claim against Verizon upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

If the plaintiff, Ian Brown was damaged, as alleged, then he cannot recover from Verizon because his negligence exceeds the negligence of the defendants.

THIRD AFFIRMATIVE DEFENSE

If the plaintiff were damaged, as alleged, then such damage was caused in whole or in part by a person or persons for whose conduct Verizon is not legally responsible.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the applicable statute of limitations and/or repose.

WHEREFORE, Verizon prays that plaintiffs' claims against it be dismissed, and that it be awarded costs and reasonable attorneys' fees.

**VERIZON'S CROSS-CLAIMS AGAINST BOSTON
EDISON COMPANY d/b/a N-STAR ELECTRIC
& THE UNITED STATES OF AMERICA**

1. Verizon is a duly organized corporation with a usual place of business at 185 Franklin Street, Boston, Suffolk County, Massachusetts.
2. The defendant in cross-claim, Boston Electric Company, d/b/a NStar Electric is a Massachusetts Corporation with a principal place of business at Boston, Suffolk County, Massachusetts (referred to hereafter, as "NSTAR").
3. The defendant in cross-claim, The United States of America, administered agencies entitled the "Department of the Navy" and the "Department of the Airforce."
4. Plaintiffs have alleged that they have suffered damages as a result of a motor vehicle accident that occurred on or about January 4, 2002 near Hartwell Road in Bedford, Middlesex County, Massachusetts.
5. Plaintiffs have alleged that Verizon, NSTAR & The United States of America negligently caused their injuries.

COUNT ONE: CONTRIBUTION AGAINST NSTAR

6. Verizon repeats and incorporates by reference the foregoing allegations of this Cross-Claim as if fully set forth herein.
7. The Court has jurisdiction over this claim pursuant to 28 U.S.C. §1367.
8. Verizon denies that it acted wrongfully in any manner or that it caused plaintiffs' injuries. However, if Verizon is deemed or adjudged liable to the plaintiffs in this action, then NSTAR is jointly liable and Verizon is entitled to contribution from NSTAR.

WHEREFORE, Verizon demands judgment against NSTAR for a pro rata share of any sum that may be adjudged against Verizon in favor of the plaintiffs together with costs, interest and attorneys' fees.

**COUNT TWO: CONTRIBUTION AGAINST
THE UNITED STATES OF AMERICA**

9. Verizon repeats and incorporates by reference the allegations contained in paragraphs 1-5 of this Cross-Claim as if fully set forth herein.

10. The Court has jurisdiction over this claim pursuant to 28 U.S.C. § 1346(b)(1) & 28 U.S.C. §1367.

11. Verizon denies that it acted wrongfully in any manner or that it caused plaintiffs' injuries. However, if Verizon is deemed or adjudged liable to the plaintiffs in this action, then The United States of America is jointly liable and Verizon is entitled to contribution from The United States of America.

WHEREFORE, Verizon demands judgment against The United States of America for a pro rata share of any sum that may be adjudged against Verizon in favor of the plaintiffs together with costs, interest and attorneys' fees.

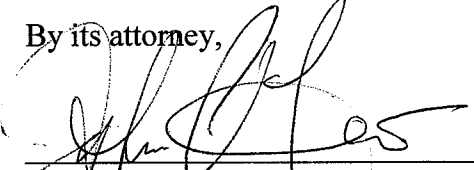
JURY CLAIM

Verizon New England, Inc. demands a jury trial on all issues, so triable, raised in the Complaint and Cross-Claims.

Respectfully submitted,

VERIZON NEW ENGLAND, INC.

By its attorney,



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